

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
TENNESSEE BUSINESS ENTERPRISES**

**CHAPTER 1240-6-1
GENERAL RULES**

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1240-6-1-.01 NECESSITY AND FUNCTION.

The Department of Human Services Division of Services for the Blind has responsibilities to administer the vending facility program for blind vendors in accordance with Chapter 6A of Title 20, PL 93-516 US Code and in accordance with 34 CFR 395 et seq., *TCA §§14-1-105 and 14-14-103 through 14-14-508* empowers the Department of Human Services to comply with any requirement that may be imposed by Federal law or regulation.

Authority: *TCA §§514-628, 14-1-104(14), 14-14-404(c); 34 CFR 395 et seq. Administrative History:* Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed May 25, 1983; effective June 24, 1983.

1240-6-1-.02 DEFINITIONS.

- (1) Active Participation. An ongoing process of negotiations between the state licensing agency and the Committee of Blind Vendors to achieve joint planning and approval of program policies, standards, and procedures, affecting the overall operation of the vending facility's program, prior to their implementation by the agency, provided that the implementation of agreed upon policies, standards and procedures affecting the overall operation of the vending facilities program, shall be subject to review by the Committee. It is understood that the agency bears final authority and responsibility for the administration and operation of the vending facilities program, including the assurance of continuing, active participation with the Committee of Blind Vendors.
- (2) Agency. The Tennessee Department of Human Services.
- (3) Application For Permit. A request for approval to install a vending facility or vending machine on Federal property.
- (4) Area Representative. A manager or managers who are elected to the Committee of Blind Vendors by his/her peers on a regional basis.
- (5) Blind Person. A person who, after examination by a physician, skilled in diseases of the eye has been determined to have not more than 20/200 control visual acuity in the better eye with correcting lenses or an equally disabling loss of the visual field, as evidenced by a limitation to the field of vision in the better eye, to such a degree that its widest diameter subtends an angle of no greater than 20.
- (6) Clients. Persons who are referred to the program as potential managers of a vending facility by the Vocational Rehabilitation Program.
- (7) Committee Of Blind Vendors (Committee). An officially constituted body within State government functioning as an integral part of the State's vending facilities program. The Committee shall be:
 - (a) Fully representative of all licensed managers;
 - (b) Elected biennially; and
 - (c) Established, constituted and maintained in accordance with 34 CFR §395.14.

(Rule 1240-6-1-.02, continued)

- (8) **License.** A written certificate issued by the State Agency to a qualified legally blind person to operate a vending facility.
- (9) **Instrument Of Facility Assignment.** A document which shall be executed by the Agency and the manager, covering the duties and responsibilities of each party.
- (10) **Manager.** A qualified blind person licensed by the State Agency to operate a vending facility on Federal or other property.
- (11) **Permit.** An agreement or contract between the State Agency and Private, State, Local or Federal agencies that prescribes the terms and conditions for operating a vending facility.
- (12) **Promotion.** Assignment of a licensed manager to a vending facility with annual gross sales projected to be more than the annual gross sales of the manager's previous facility.
- (13) **Ready For Employment List.** A list of all currently licensed managers, who are not permanently assigned a facility. The ranking of these managers shall be based upon the accrual of seniority, or in the absence thereof, listed in the order in which they were certified by the Agency as eligible to receive a license.
- (14) **Set-Aside Funds.** Funds which accrue to a State Agency from an assessment against the net proceeds of each vending facility and any income from vending machines on Federal property which accrues to the Agency.
- (15) **State Agency.** The Agency designated by the Commissioner of Rehabilitation Services Administration to issue licenses to blind persons for operation of vending facilities, and to implement the operation, thereof.
- (16) **Temporary Manager.** One who manages a facility temporarily while no qualified manager wants the facility on a permanent basis, or while waiting for the awarding of the bid to a permanent manager.
- (17) **Transfer.** Lateral reassignment of a licensed manager to a vending facility where the annual gross sales are projected to be within a range of 15% of the annual gross sales of the manager's previous facility.
- (18) **Vending Facility.** Means a location or structure or space which may sell foods, beverages, confections, newspapers, periodicals, tobacco products and other articles and services which are dispensed automatically by a machine or manually by sales personnel or attendants and which may be prepared on or off the premises in accordance with applicable health laws. A "vending facility" may consist exclusively or in appropriate combination as determined by the department, of automatic vending machines, cafeterias, snack bars, catering services, food concession vehicles, cart services, shelters, counters and any appropriate equipment necessary for the sale of articles or services described above. A "vending facility" may encompass more than one (1) building on a public property.
- (19) **Vending Machine Income.** Net proceeds from vending machines located on Federal or other property paid directly to licensed managers or disbursed to the Agency for use as required in the vending facility program.

Authority: TCA §§4-5-201 et seq., 14-14-404(c), 71-1-105(12), 71-4-502(5), 71-4-604(c); 32 CFR §260 et seq., 34 CFR §395.4, 34 CFR §§395.1(c), (i), (s), (x) and (z), 395.7. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed December 11, 1986; effective January 25, 1987. Amendment filed March 10, 1989; effective April 24, 1989. Amendment filed April 27, 1998; effective August 28, 1998.